

Congress of the United States

Washington, DC 20515

June 16, 2004

The Honorable Glenn Fine
Inspector General
U.S. Department of Justice
Office of the Inspector General
950 Pennsylvania Avenue, NW, Suite 4322
Washington, DC 20530-0001

Dear Mr. Inspector General:

We write to ask the Office of the Inspector General ("OIG") to investigate the multitude of errors that led to the arrest and two-week detention of Portland, Oregon attorney Brandon Mayfield in connection with the investigation of the Madrid terrorist bombing in March 2004. The misidentification of Mr. Mayfield's fingerprints and the decision to arrest him as a material witness raises troubling concerns, particularly in such a high profile case. It is critically important to expeditiously review the process of the FBI's fingerprint analysis, its systems for reviewing its analysis both in the first instance and when contrary conclusions are presented, and the use of the material witness statute.

In this regard, you should also investigate the accuracy of press reports regarding when the Spanish authorities alerted the FBI about the misidentification and how the FBI and Department responded to that information. This issue goes to the crux of representations made to the U.S. District Court for the District of Oregon. In addition, these events raise questions about the FBI's procedures for coordinating analysis with foreign countries and integrating conflicting conclusions about evidence into their review and approval procedures.

Finally, upon review of the affidavit presented to the Court in the Mayfield case, issues about inappropriate or illegal racial profiling should also be investigated by your office. We are concerned, for example, about the prominent mention of Mr. Mayfield's religious practices in the material witness warrant to support probable cause to arrest him.

In your investigation, we hope that you will address the following questions:

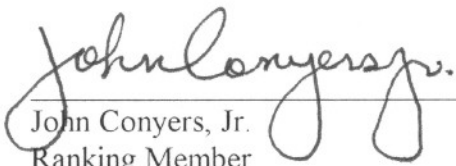
1. When and how was the misidentification made and when and how did the FBI re-review the fingerprint analysis after the Spanish authorities questioned the identification?
2. What exactly was known and by whom within the FBI, the Department of Justice and the U.S. Attorney's Office about doubts regarding the fingerprint identification at the time the material witness was sought?
3. What role did senior officials at the FBI, the Department of Justice and the White House play in shaping this investigation and who, ultimately, decided to seek a material witness warrant for Mr. Mayfield and reviewed it prior to submission to the Court?

4. Was the material witness statute used appropriately to seek the detention of Mr. Mayfield and were any laws, ethical guidelines, employee rules or procedures violated by anyone at the Department of Justice in the pursuit of the warrant or in the investigation?
5. Did Mr. Mayfield's religious affiliation and practices influence the decision to investigate him and seek his arrest and detention? If so, how and were any laws or regulations violated?
6. In addition to questions raised by the Spanish authorities about the fingerprint analysis, were any federal authorities aware of any other exculpatory information regarding Mr. Mayfield and, if so, what was that information, who in the government was aware of it and was it presented to the Court at the time the material witness warrant was sought?
7. Some press reports suggest that Mr. Mayfield was also the target of a search warrant subject to "delayed notification", also known as a "sneak and peak" warrant. Was such a warrant obtained and, if so, what was the basis for the delayed notification warrant?

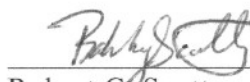
An investigation and report by your office will play an important role in illuminating policies and procedures we must address to ensure that innocent people are not deprived of their liberty. A thorough investigation and objective findings are owed to Brandon Mayfield, his family and to the American people regarding this matter.

If you have any questions about this request, please contact Perry Apelbaum or Ted Kalo of the Judiciary Committee staff by telephone (202-225-6504) or fax (202-225-4423) or Alex Busansky in Senator Feingold's office by telephone (202-224-5573) or fax (202-224-2725). You may provide your final report by mail to us at 2142 Rayburn House Office Building, Washington, DC 20515 and to 506 Hart Senate Office Building, Washington, DC 20510.

Sincerely,


John Conyers, Jr.
Ranking Member
Committee on the Judiciary


Russell D. Feingold
Senator


Robert C. Scott
Ranking Member
Subcommittee on Crime, Terrorism
and Homeland Security